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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,792	03/30/2004	Yasushi Sasagawa	FUJO 21.086	5194

26304 7590 11/26/2007

KATTEN MUCHIN ROSENMAN LLP
575 MADISON AVENUE
NEW YORK, NY 10022-2585

EXAMINER	
JAIN, RAJ K	

ART UNIT	PAPER NUMBER
2616	

MAIL DATE	DELIVERY MODE
11/26/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Office Action Summary	Application No.	Applicant(s)	
	10/813,792	SASAGAWA ET AL.	
	Examiner	Art Unit	
	Raj K. Jain	2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *30 March 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-38* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-7,11,13,20,21,24 and 27-38* is/are rejected.

7)☒ Claim(s) *8-10,12,14-19,22,23,25 and 26* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *30 March 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *20071015*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 12 recites the limitation "said transfer process" in line 15. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 30-33 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The subject claims recite a "carrier signal" which is non-statutory subject matter. Please see MPEP 2106 [R-5]. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-7, 11, 13, 20, 21, 24, 27, 28-38 are rejected under 35 U.S.C. 102(e) as being anticipated by Hirst et al (USP 6,581,166 B1).

Regarding claims 1-3, 11, 21, 28-38, Hirst discloses a control packet processing apparatus 21 (Fig. 1, abstract, a pinging mechanism control packet is processed for routing) for receiving a control packet used to exchange a variety of information among devices that support a spanning tree protocol (Fig. 2, col 4 lines 55-60), comprising: a receiving device receiving the control packet (Fig. 2, 109, 111 receive packets); a buffer device storing the received control packet (Fig. 2, computers 101, 103, 105 have buffers for incoming packets); and

a control device autonomously transferring the packet stored in the buffer device to a processing unit re-configuring a communication route of a spanning tree protocol in a specific cycle when no control packet is received for a specific period (Fig.6, col 4 lines 55-60; col 9 line 50-67; col 11 lines 29-44, a pinging mechanism is employed to determine packet status within a specific time interval for rerouting of packets).

Further with respect to Claim 2, Hirst discloses a computer 20 (Fig. 1) which generates appropriate control packets for transmission and reception from other interfaces as configured in Fig. 2.

Regarding claims 4, 13, 20, 24, and 27, Hirst discloses input instructions as part of an overall set of algorithms to stop and/or start control packet transmission (claim 1).

Regarding claim 5, Hirst discloses a table processing device, wherein said transmitting device has a table storing a correspondence relationship between an

address and a port of a frame transferred according to the spanning tree protocol, and the table processing device discards a table flush instruction accompanying the re-configuration of the communication route of a spanning tree protocol while said transmitting device is autonomously transmitting the control packet (col 10 line 57- col 11 line 9, routing tables are updated as changes in the network occur).

Regarding claims 6 and 7, Hirst discloses prevents another device from detecting a change in the communication route of a spanning tree protocol, and recovers the communication route just before the stoppage of an operation of the processing unit when the processing unit stops or restarts (col 4 lines 7-24; col 7 lines 10-30).

Allowable Subject Matter

Claims 8-10, 12, 14-19, 22, 23, 25 and 26 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raj K. Jain whose telephone number is 571-272-3145. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham can be reached on 571-272-3179. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Raj K. Jain
/Raj K. Jain/
Art Unit 2616

November 20, 2007